

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 834**

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**Introduced by Assembly Member Williams**

February 21, 2013

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An act to amend Section 25402.11 of the Public Resources Code, relating to energy efficiency standards.

### LEGISLATIVE COUNSEL'S DIGEST

AB 834, as amended, Williams. Energy efficiency standards: administrative enforcement.

Existing law authorizes the State Energy Resources Conservation and Development Commission to establish an administrative enforcement process to enforce regulations establishing appliance efficiency standards. Existing law requires the commission to establish, by regulations, building construction and design standards and energy and water efficiency standards for new residential and new nonresidential buildings to increase the efficient use of energy and water.

This bill would additionally authorize the commission to establish an administrative enforcement process to enforce regulations establishing the building construction and design standards and energy and water efficiency standards.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25402.11 of the Public Resources Code is amended to read:

25402.11. (a) (1) The commission may adopt regulations establishing an administrative enforcement process for a violation of a regulation adopted pursuant to Section 25402 and for the assessment of an administrative civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation. The process shall comply with the requirements of Chapter 4.5 (commencing with Section 11400) and Chapter 4.5.5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) In assessing the amount of an administrative penalty, the commission shall consider all of the following factors:

- (A) The nature and seriousness of the violation.
- (B) The number of violations.
- (C) The persistence of the violation.
- (D) The length of time over which the violation occurred.
- (E) The willfulness of the violation.
- (F) The violator's assets, liabilities, and net worth.
- (G) The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.

(b) If the commission finds that a violation of the regulations adopted pursuant to Section 25402 has occurred or is threatening to occur, the commission may refer the matter to the Attorney General to petition a court to enjoin the violation. The court may grant prohibitory or mandatory injunctive relief as warranted by issuing a temporary restraining order, preliminary injunction, or permanent injunction, and may assess a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, considering the factors specified in paragraph (2) of subdivision (a).

(c) Penalties collected pursuant to this section shall be deposited into the ~~Appliance~~ Efficiency Enforcement Subaccount, which is hereby established in the Energy Resources Program Account. The moneys in the ~~Appliance~~ Efficiency Enforcement Subaccount may be expended by the commission, upon appropriation by the Legislature, for the education of the public regarding ~~appliance~~

1 energy efficiency and for the enforcement of the regulations  
2 adopted pursuant to ~~subdivision (c)~~ of Section 25402.

3 (d) An order imposing an administrative civil penalty shall be  
4 subject to judicial review pursuant to subdivisions (a) and (b) of  
5 Section 25534.2.

6 (e) A person shall not be liable for a civil penalty pursuant to  
7 subdivision (b) if that person is subject to an administrative civil  
8 penalty pursuant to subdivision (a).

9 (f) In a civil action brought on behalf of the commission  
10 pursuant to this section, upon granting relief, the court shall award  
11 to the commission the reasonable costs incurred by the commission  
12 in investigating and prosecuting the action.

13 (g) The commission shall not initiate an administrative  
14 enforcement process pursuant to the regulations adopted pursuant  
15 to this section against an entity for the unlawful sale or the unlawful  
16 offer for sale of an appliance if both of the following apply:

17 (1) The appliance fully complies with all of the requirements  
18 of the regulations adopted pursuant to subdivision (c) of Section  
19 25402.

20 (2) The only basis for the commission's potential enforcement  
21 action is that the appliance is not considered to be in compliance  
22 because of the commission's delay in reviewing and processing  
23 information submitted to it that demonstrates full compliance.

24 (h) In addition to the prohibitions specified in subdivision (g),  
25 the commission shall not initiate an administrative enforcement  
26 process pursuant to the regulations adopted pursuant to this section  
27 for a violation of a ~~standard~~ *regulation* adopted pursuant to Section  
28 25402 until both of the following occur:

29 (1) No fewer than 60 days have elapsed since the date when the  
30 ~~standard~~ *regulation* was published in the California Register.

31 (2) No fewer than 30 days have elapsed since the date when the  
32 alleged violator received written notice of the alleged violation  
33 and date when the commission provided public notice of the  
34 standard.